

# DECISION



THE COMPTROLLER GENERAL  
OF THE UNITED STATES  
WASHINGTON, D. C. 20548

FILE: B-221609

DATE: February 28, 1986

MATTER OF: ABF Freight System, Inc.  
(East Texas Motor Freight)

**DIGEST:** Destination/billing carrier asks for review of the General Services Administration's (GSA) deduction actions relating to six Government shipments. GSA based its audit actions on the carrier's single-line tender rates. The claimant carrier contends that higher joint-line rates were applicable because other carriers picked up the shipments, but GSA concluded that the origin carriers were merely the claimant's agents. The record shows that the claimant offered the lower tender rates to the Government for single-line service and the bills of lading show that the origin carriers received the shipments as the claimant's agents. GSA's actions are sustained on the basis of recent Comptroller General precedent in similar cases.

This decision results from our review of deduction actions directed by the General Services Administration (GSA) to recover overcharges collected by ABF Freight System, Inc. (or East Texas Motor Freight (ETMF)),<sup>1/</sup> for transporting six shipments that moved on Government Bills of Lading.<sup>2/</sup> We sustain the GSA's actions.

ABF's papers indicate that carriers other than ABF (ETMF) picked up the shipments at origin and transferred them to ABF (ETMF) for transportation and delivery. ABF (ETMF) billed and was paid transportation charges based on joint-line rates. GSA determined that lower single-line rates, published in ABF (ETMF)'s tenders, were applicable, on the theory that the origin carriers were merely ABF (ETMF)'s pick-up agents, rather than interline carriers. GSA had the difference in amounts--the overcharges--deducted from monies otherwise due the carrier.

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<sup>1/</sup> ABF apparently assumed responsibility for the settlement of claims against East Texas Motor Freight.

<sup>2/</sup> By letters dated December 17 and 18, 1985, and January 6, 1986, ABF requested our review of GSA's audit action on Government Bills of Lading AP0743634, S4283162, M6361307, M6361264, M6357146, BP0392232.

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ABF does not dispute the existence of tenders that offered the low rates for single-line service. It argues instead that the single-line rate does not apply because different carriers picked up the shipments at origin and interlined them with ABF (ETMF).

Because the facts of record are materially the same as those we considered in a recent decision also involving ABF and ETMF, we have considered these requests for review without obtaining an administrative report from GSA. In one of the two decisions ETMF was listed on the bill of lading as the origin and delivering carrier. The person who signed for the shipment at origin did so "per ETMF." ABF (ETMF) presented evidence to show that actually the shipment had been picked up by a different carrier which had then interlined it with ETMF. We sustained GSA's audit action applying a single-line rate on the basis that the documentation indicated that if another carrier was involved, it acted as ETMF's pick-up agent. We stated that these facts presented compelling evidence that ETMF had agreed to transport the shipment from origin to destination at the lower single-line rates offered in the tender and whatever arrangements ETMF may have made with other carriers concerning operational details had no legal effect on the mutual obligations of the parties to the contract of carriage. ABF Freight System, Inc. (East Texas Motor Freight), B-218695, October 30, 1985, 65 Comp. Gen. \_\_\_\_.

The documents presented by ABF in the present case show similar facts. That is, the bills of lading were issued to ABF (ETMF), the shipments were signed for at origin so as to indicate that the pick-up carrier was doing so as the agent of ABF (ETMF), and ABF (ETMF) was the delivering carrier.<sup>3/</sup> In view of the materially similar facts, that decision is controlling here.

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<sup>3/</sup> In addition, three of the GBL's, M-6361307, M-6357146, and M-6361264, cover shipments tendered by the Navy at Bremerton, Washington, where it was shown in a previous decision that the transportation office had received written notice that the same origin carrier was acting merely as pick-up agent. See ABF Freight System, Inc. (East Texas Motor Freight), B-218696/B-218697, October 30, 1985.

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Accordingly, the single-line rates applied by the GSA were applicable; therefore, we sustain the agency's actions.

*for* *Shelton J. Jordan*  
Comptroller General  
of the United States